



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

attachment, *Thomson v. Tilden*, *supra*, and citing *Gribbon v. Freel*, *supra*, with approval, held that a summons which failed to state the county in which trial was desired was good enough to defeat a motion to vacate the warrant where lack of jurisdiction was claimed.

TORTS—OPERATION OF RAILROADS—PROXIMATE CAUSE.—The defendant's train crew saw a fire on one side of the track, and fire engines approaching from the other side, but nevertheless proceeded on with the train and blocked the crossings, though it would have been practicable for them to have stopped and left the way clear. The property owner sued for damage due to the consequent delay. *Held*, one judge dissenting, it was error to dismiss the complaint, *Globe Malleable Iron & Steel Co. v. New York Cent. & H. R. R. R.* (N. Y. 1919) 124 N. E. 109.

It is well settled that though a railroad does not start the fire, yet the delay caused by its conduct may be the proximate cause of the increased damage. *Erickson v. Great Northern Ry.* (1912) 117 Minn. 348, 135 N. W. 1129; *Phoenix Insurance Co. v. New York Central & H. R. R. R.* (1907) 122 App. Div. 113, 106 N. Y. Supp. 696, *aff'd* (1909) 196 N. Y. 554, 90 N. E. 1164; *Houren v. Chicago etc. Ry.* (1908) 236 Ill. 620, 86 N. E. 611, whether that conduct is active, *Metallic Compression Casting Co. v. Fitchburg R. R.* (1872) 109 Mass. 277, or passive. *Houren v. Chicago etc. Ry.*, *supra*; *contra*, *Louisville & Nashville R. R. v. Scruggs & Echols* (1909) 161 Ala. 97, 49 So. 399. It is also established that in cases like the instant one the public safety is paramount to the right of the defendant to use its property in an otherwise lawful manner, *Metallic Compression Casting Co. v. Fitchburg R. R.*, *supra*, and that the question of proximate cause and of negligence should properly be left to the jury. *Cf. Milwaukee & St. Paul Ry. v. Kellogg* (1876) 94 U. S. 469; see *Cleveland etc. Ry. v. Tauer* (1911) 176 Ind. 621, 96 N. E. 758.

WATERS AND WATER-COURSES—RIPARIAN OWNER—NATURE OF RIGHT.—The City of New York, by damming up Esopus Creek, in order to acquire more water for the Ashokan Reservoir, dried up the creek below the dam so as permanently to deprive the claimant, a lower riparian owner, of his natural right to have the water flow past his land substantially undiminished. *Semble*, this is a corporeal right. *Van Etten v. City of New York* (N. Y. 1919) 124 N. E. 201.

It must be admitted that, strictly speaking, all rights are incorporeal, in the sense that they have no physical existence. But the common-law lawyers made the distinction between corporeal and incorporeal rights and it is interesting to determine what was the line of their distinction. Blackstone states in his Commentaries, 2 Bl. Comm. *20, that "corporeal hereditaments are the substance, which may be always seen, always handled: incorporeal hereditaments are but a sort of accidents, which inhere in and are supported by that substance." But, says Digby, *Real Property* (5th ed.) 306 n. 2, "The names 'corporeal and incorporeal' are most unfortunate, because if by